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**ATTORNEYS FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	<b>CR 19-95-BLG-SPW</b>
<b>Plaintiff,</b>	
<b>vs.</b>	<b>AMENDED OFFER OF PROOF</b>
<b>DONALD RAYMOND FOOTE, JR.,</b>	
<b>Defendant.</b>	

**THE CHARGE**

The defendant, Donald Raymond Foote, Jr., is charged in the Indictment with Stalking, in violation of 18 U.S.C. §§ 2261A(2)(B) and 2265A(a) (Count I) and Interstate Violation of a Protective Order, in violation of 18 U.S.C. §§ 2262(a)(1)

and 2265A(a) (Count II).

### **PLEA AGREEMENT**

The defendant, Donald Raymond Foote, Jr., will enter a voluntary plea of guilty to the charge contained in Count II, Interstate Violation of a Protective Order, in violation of 18 U.S.C. §§ 2262(a)(1) and 2265A(a) pursuant to a written plea agreement. The motion for change of plea filed with the Court represents, in the government's view, the most favorable disposition of the case against the defendant. *See, e.g., Missouri v. Frye*, 566 U.S. 134 (2012).

### **ELEMENTS**

In order for the defendant to be found guilty of the charge contained in Count II, the government must prove each of the following elements beyond a reasonable doubt:

First, that there was a protection order that prohibited or provided protection against violence, threats, or harassment against, contact or communication with, directly or indirectly, or physical proximity to, another person, specifically Jane Doe 1, Jane Doe 2, and John Doe 1;

Second, that the defendant traveled in interstate or foreign commerce or, entered or left Indian country, or within the special maritime and territorial jurisdiction of the United States;

Third, that the defendant did so with the intent to engage in conduct that violated the portion of the protection order that prohibited or provided protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued; and

Fourth, that the defendant thereafter engaged in such conduct that violated the protection order.

### **PENALTY**

The offense in Count II carries a maximum punishment of ten years imprisonment, a \$250,000 fine, three years supervised release, and a \$100 special assessment.

### **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

In approximately August 2017, Jane Doe 1 was going through a divorce with her husband and was introduced to the defendant, Donald Raymond Foote, Jr. Jane Doe 1 began living with Foote in Cody, Wyoming. Jane Doe 1 also has two children – Jane Doe 2 and John Doe 1. While staying on his property, Foote became infatuated with Jane Doe 1.

In approximately November 2017, Jane Doe 1 moved to Billings, Montana with Jane Doe 2. Foote continued to maintain contact with both Jane Doe 1 and Jane Doe 2. The relationship between Foote and Jane Doe 1 deteriorated. Multiple negative interactions occurred between them over the next several months. Foote began contacting Jane Doe 1 on a repeated basis by phone, text, and through social media. He also continued to contact Jane Doe 2 and John Doe 1, as well as other members of their family and friends.

An incident occurred near the end of August 2018 that prompted Jane Doe 1 to obtain a temporary restraining order against Foote. On August 29, 2018, Jane Doe 1 obtained a temporary restraining order against Foote in Billings Municipal Court Case Number CV-925-2018-0000256-OP. This was served on Foote by Park County Sherriff's Office on September 11, 2018 at Foote's residence in Cody, WY at approximately 8:19 p.m.

On October 30, 2018, a Permanent Order of Protection was issued by the Billings Municipal Court in CV-925-2018-0000256. On October 31, 2018, at approximately 8:40 a.m. Foote was served the Protective Order in Cody, Wyoming. By its terms, it prohibited Foote from threatening or committing acts of violence, harassing, annoying, disturbing the peace or communicating, directly or indirectly, with Jane Doe 1, Jane Doe 2, or John Doe 1. It also required Foote to stay 1,500

feet away from each (Jane Doe 1, Jane Doe 2, and John Doe 1), as well as their residences, jobs, and vehicles.

On December 29, 2018, Jane Doe 1 observed Foote's black van parked outside her residence near Laurel. This contact was in violation of the order of protection. Jane Doe 1 called law enforcement and observed Foote driving the van as it pulled away. Foote was located shortly after in Laurel. When approached by law enforcement, Foote stated he had come from Cody, Wyoming to Billings to purchase wood pieces for a job. He originally stated he was trying to locate a business, mistakenly drove past it, and turned around in a driveway on the north side of the road. This was Jane Doe 1's driveway. Foote said he was aware of the Protection Order and claimed he had not had contact with Jane Doe 1 in months.

On January 3, 2019, law enforcement searched Foote's black van. Multiple electronic devices, including a cell phone, were located. The phone contained multiple messages involving Jane Doe 1 and referred to her "Laurel house," contrary to Foote's statement that he did not know where she lived. Foote's laptop, subsequently discovered in Foote's Cody residence, was searched and contained photos of Jane Doe 1 and her children, as well as evidence linking him to a fake "private investigator" Facebook page he used to contact Doe 1. There were also several internet searches on this device for Jane Doe's house in Laurel.

The United States would have presented this evidence through the testimony of law enforcement, lay witnesses and expert witnesses.

DATED this 12th day of June, 2020.

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